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Docket No. T-01051B-14-0389

Lori S. Daniels

Complainant

AZ CORP COMMISSION
DOCKET CONTROL

V.

Qwest Corporation dba

CenturyLink

Respondent

ORIGINAL

The following attachment is my response to the Affirmative Defenses by CenturyLink (Qwest). I respectfully request that the complaint I have filed not be dismissed. It is my understanding of the Arizona Revised Statutes and the Arizona Administrative Code, that I have a valid complaint against CenturyLink (Qwest) and how they have overcharged me for certain services.

At the Procedural Hearing on January 21, 2015, CenturyLink's attorney stated that they have responded to my original complaint to them in a timely manner. I disagree. Please see Exhibit 1 showing the specific timeline of CenturyLink's responses. It was only after sending a letter to the Corporation Commission that CenturyLink attempted any effort to respond to me with a settlement. Even then, they were unresponsive when I disagreed with what they offered. I spent more than six months attempting to have CenturyLink deal with this complaint, but to no avail.

Respectfully submitted:

Lori S. Daniels

January 23, 2015

Arizona Corporation Commission
DOCKETED

JAN 23 2015

DOCKETED BY

RESPONSE TO THE AFFIRMATIVE DEFENSES by CenturyLink (Qwest)

16. Complainant has failed to state a claim upon which relief may be granted.

Response: Arizona Administrative Rules which govern Telephone Utilities (R14-2-508) requires that the minimum bill information that each utility shall provide include any monthly charge for requested service and that any miscellaneous charges and credits to be shown separately. As pointed out in the complaint, there was **never** a monthly charge on the bill for a Foreign Central Office service. This term was never used when discussing the bill at various times over the past decade with Qwest or CenturyLink service representatives. (See Exhibit 2)

17. Complainant has alleged no "violation of any provisions of law or any order or rule of the Commission" as required by ARS §40-246(A).

Response: Although not stated in the complaint, there was clear violation of R14-2-508. No service for "Foreign Central Office service" was ever delineated on the bill. In addition, it is also clear that they engaged in a deceptive business practice under the statutory criminal code in order to overcharge customers.

This misrepresentation of charges on the utility bill is a violation of Arizona Revised Statutes, Title 13, Chapter 22. ARS 13-2201 defines "misabeled" as "varying from the standard of truth or disclosure in labeling . . . as set by established commercial usage. . ." The term "Foreign Central Office service" is not defined under the definitions set forth on the ACC website or in the AAC Rules & Regulations regarding telecommunication companies.

In addition, ARS 13-2202 (A.5) states that "A person commits deceptive business practices if in the course of engaging in a business, occupation or profession such person recklessly . . . sells, offers or exposes for sale mislabeled goods or services." (See Exhibit 3)

18. The Complaint was filed on November 14, 2014, alleging overcharges dating back to June 2001. A.R.S. 40-248 (B) bars recovery of overcharges farther back than two years, stating:

All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the action to enforce the order shall be brought within one year from the date of the order of the commission.

- After application of time bar, the period during which recovery of overcharges alleged by the Complainant is permitted is November 14, 2012, to the date the FCO service was cancelled, which was August 16, 2014, which is about 21 months.

Response: As stated in the complaint, as soon as a service technician explained what “foreign exchange” actually meant in September of 2013, I contacted CenturyLink and therefore, complied with paragraph B of this statute. What CenturyLink left out of its response is paragraph A of this same statute (ARS 40-248), which states:

“When complaint is made to the commission concerning any rate, fare, toll, rental or charge made by any public service corporation, and the commission finds, after investigation, that the corporation has made an excessive or discriminatory charge, the commission may order that the corporation make reparation to the complainant with interest at the legal rate from the date of collection, . . .” (See Exhibit 4)

19. Equity demands that any order of reparation be reduced by amounts previously credited to the Complainant in connection with her dispute.

Response: Agree to reduce reparation by credited amount of \$1,089.56

EXHIBIT 1

EXHIBIT 1

TIMELINE OF EVENTS AND CORRESPONDENCE WITH CENTURYLINK

August 2013-

CenturyLink's Technician explained to my Office Manager that we had been paying for a service that was no longer necessary. He called that service a Foreign Exchange. The Technician stated that we had not needed this service for more than 10 years.

September 2013-

CenturyLink gave me 1 month credit for this unnecessary service.

September 2013- February 2014

I made several attempts to contact CenturyLink though email and phone conversations to resolve this matter.

February 2014-

To resolve this issue, Sharon Bishop, CenturyLink's Representative contacted me and offered one year of credit for this service. After considering the offer for 24 hours, I contacted Ms. Bishop and rejected her offer. I asked her to research this issue and see how long this service wasn't necessary.

April 2014-

Ms. Bishop contacted me again, at this time she stated that it was not possible to determine how long I had been paying for this unnecessary service. During this conversation, she offered me a 2nd Settlement Offer. (See Exhibit 4 of my original complaint.)

June 2014-

I made a counter offer (See Exhibit 5 from original complaint). I waited one month and had no response. I then contacted Ms. Bishop and she verbally told me that CenturyLink was rejecting my counter offer. As of this date, I had never received any written notice of rejection.

October 2014-

I received 3 letters from the Corporation Commission showing that this Foreign Exchange Service had not been necessary, since June 2001. I was totally surprised by these letters, as CenturyLink's Representative, Sharon Bishop stated they couldn't determine when I no longer need to pay for this service.

Note*CenturyLink's June 18, 2001 letter would not have been sent to me, because it applies the Tucson Metro Area.

EXHIBIT 2

Arizona Administrative Code
ARTICLE 5. TELEPHONE UTILITIES
R14-2-501. Definitions

(No definition of "Foreign Exchange Office service")

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction." Funds provided to the utility by the applicant under the terms of a construction agreement, which may be refundable.
2. "Applicant." A person or agency requesting the utility to supply telephone service.
3. "Application." A request to the utility for telephone service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission." The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Basic exchange service." Service provided to business or residential customers at a flat or measured rate which affords access to the telecommunications network.
6. "Billing period." The time interval between the issuance of two consecutive bills for utility service.
7. "Central office." The switching equipment and operating arrangements which provide exchange and long distance service to the public and interconnection of customer telecommunication services.
8. "Contribution in aid of construction." Funds provided to the utility by the applicant under the terms of a construction agreement or construction tariff which are not refundable.
9. "Customer." The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
10. "Day." Calendar day.
11. "Line extension." The lines and equipment necessary to provide service to additional customers.
12. "Person." Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
13. "Service access point." A demarcation point where facilities owned, leased, or under license by a customer connect to the utility provided access line.
14. "Premises." All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
15. "Residential subdivision development." Any tract of land which has been divided into four or more contiguous lots with an average size of one acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
16. "Rules." The regulations set forth in the tariffs which apply to the provision of telephone service.
17. "Service area." The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide telephone

service.

18. "Service charge." The charge as specified in the utility's tariffs which covers the cost of establishing moving, changing or reconnecting service or equipment.

19. "Access line." A communications facility that connects service from a common distribution source to the service access point.

20. "Tariffs." The documents filed with the Commission which list the utility services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.

21. "Terminal equipment." The equipment through which communication services are furnished.

22. "Temporary service." Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.

23. "Toll service." Service between stations in different exchange areas for which a long distance charge is applicable.

24. "Utility." The company providing telephone service to the public in compliance with state law.

Title 40: Public Utilities and Carriers

Chapter 2

(No definition of "Foreign Office Exchange service")

40-201. Definitions

In this chapter, unless the context otherwise requires:

1. "Ancillary services" means those services designated as ancillary services in federal energy regulatory commission order 888 adopted in 1996 including the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice.
2. "Appliance application" means central space heating, clothes drying, water heating and indoor cooking.
3. "Bundled service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electricity used by consumers.
4. "Commission" means the Arizona corporation commission.
5. "Common carrier" means a railroad or street railroad.
6. "Electric distribution facilities" means all property used in connection with the distribution of electricity from an electric generating plant to retail electric customers except electric transmission facilities.
7. "Electric distribution service" means the distribution of electricity to retail electric customers through the use of electric distribution facilities.
8. "Electric distribution utility" means a public service corporation or public power entity that operates, controls or maintains electric distribution facilities.
9. "Electric generation plant" means all property used in connection with the generation for sale of electricity to retail electric customers but excluding any services provided by electric transmission facilities or electric distribution facilities.
10. "Electric generation service" means the provision of electricity for sale to retail electric customers but does not include electric distribution or transmission services and generation that are necessary for the reliable operation of the electric distribution or transmission system.
11. "Electric transmission facilities" means all property so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.
12. "Electric transmission service" means the transmission of electricity to retail electric customers or to electric distribution facilities that is so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.
13. "Electricity" means electric energy, electric capacity or electric capacity and energy.
14. "Electricity supplier" means a person, whether acting in a principal, agent or other capacity, that is a public service corporation that offers to sell electricity to a retail electric customer in this state.
15. "Foreign nonprofit, member owned cooperative corporation" means a cooperative incorporated in another state if that state has not ordered electric competition for cooperative corporations.
16. "Gas plant" includes all property used in connection with the production, transmission or delivery of gas for light, heat or power for sale.
17. "Other services" means metering, meter reading, billing and collecting services.

18. "Pipeline" includes all property used in transmission for compensation of air, steam or fluid substances, except water, through pipelines.
19. "Railroad" includes every railway, other than a street railroad, operated for public transportation of persons or property.
20. "Residential structure" means a detached owner-occupied or rental one or two family dwelling unit, an attached duplex or fourplex unit, a manufactured home, a residential factory-built building as defined in section 41-2142, paragraph 14 or a mobile home designed to be used with a permanent structure, excluding real property used to accommodate more than four attached dwelling units.
21. "Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business, and not for resale, redistribution or retransmission.
22. "Service territory" means the geographic area in which a public power entity or public service corporation owns, operates, controls or maintains electric distribution facilities or natural gas distribution facilities and that additional area in which the public power entity or public service corporation has agreed to extend electric distribution facilities or natural gas distribution facilities, whether established by a certificate of convenience and necessity, by official action by a public power entity or by contract or agreement.
23. "Sewer corporation" includes every person owning, controlling, operating or managing any sewage system for profit.
24. "Sewerage system" includes all property used in connection with the collection, treatment, purification and disposal transmission, storage or treatment of sewage.
25. "Street railroad" includes every railway operated along any street or public way for public transportation of persons or property, but does not include a commercial or interurban railway.
26. "Telecommunications corporation" means a public service corporation other than municipal engaged in transmitting messages or furnishing public telegraph or telephone service or operating as a telecommunications common carrier.
27. "Telegraph line" includes all property used in connection with communication by telegraph for compensation with or without the use of transmission wires.
28. "Telephone line" includes all property used in connection with communication by telephone, for compensation, with or without the use of transmission wires.
29. "Transportation of persons" includes every service in connection with the carriage and delivery of a person and the person's baggage.
30. "Transportation of property" includes every service in connection with the transportation and handling of property.
31. "Water system" includes all property used in connection with the diversion, development, storage, distribution and sale of water for beneficial uses for compensation.

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Electric Gas Telephone Water / Sewer Consumer Services

Telephone Terminology

Below are definitions of terms commonly used in the telephone industry. This list is not designed to be comprehensive, but rather to give a basic definition. Some of these terms have specific regulatory or technical definitions as spelled out in law or statute. In those situations, the legal or technical definition takes precedence.

Bandwidth: The range of frequencies available for signaling.

Baud: A unit of signaling speed equivalent to the number of signaling elements per second.

Byte: A group of binary digits which are processed by a computer as a unit.

Central Office: A building that houses telecommunications equipment.

Circuit: The physical connection of channels, conductors and equipment in such a way as to provide discrete communications between two given points. A circuit is comprised of both a sending line and a receiving line.

Circuit Grade: The information carrying capability of a circuit in terms of speed or type of signal.

Competitive Local Exchange Carrier (CLEC):

A competing company that is licensed to provide local telephone service using their own network or a portion of the network owned and installed by another company. CLECs provide service in competition with the Incumbent Local Exchange Carrier or ILEC.

Cramming: The unauthorized addition of services or features to your telephone service.

These services may be such things as voice mail, caller ID, special service packages or fee-for-service charges such as 900 calls.

Cross Connection: A term used to indicate the actual tying together of telephone equipment in the central office.

Crosstalk: The unwanted blending of noise, conversation or audible interference that is typically caused by two lines touching one another.

Exchange: A geographic area established by the incumbent local service provider usually encompassing a city, town, village or surrounding areas. It consists of one or more central offices together with the associated equipment used in furnishing communications service.

Exchange Service: A service permitting interconnection of any two customers' stations through the use of carrier provided common equipment.

Extended Area Service: A telephone exchange service that extends over a usual boundary to contiguous areas, without toll charges. This exists in areas where there is a community of interest and toll charges are not applied in return for a somewhat higher basic exchange service rate.

Facsimile: The transmission of pictures, maps or other documents via communications channels by means of a device which scans the original document and transforms the message into coded signals.

Filter: A circuit or device which eliminates a larger proportion of unwanted frequencies than it does desired frequencies. Typically, filters are used on a communications channel to guard from adjacent channel interference.

Frame: An amount of information within a defined boundary.

Frequency: The rate of signal oscillation measured in hertz or cycles per second.

Hertz: A unit of frequency expressed in cycles per second. One hertz equals one cycle per second.

High Pass Filter: A wave filter which screens out all signals below a predefined limit and

allows all signals above that limit to be received by a unit.

Incumbent Local Exchange Carrier (ILEC):

Interactive Voice Response Unit (IVRU):

Automated electronic or software devices that give callers the option to press a number to route their call to a specific destination, enter account numbers or enter information that assists a company in serving the end user. The company that owns or controls the network of wires and switches used to deliver phone service in your area.

***Intercept:* The rerouting of a telephone call to a recorded message, operator or other device.**

***Interconnect:* To connect privately owned components to a public network of communications common carriers.**

***Interface:* The mechanical or electrical shared boundary or link connecting two or more physical entities or systems.**

***Interstate:* Telephone calls originating in one state and terminating in another.**

***Intrastate:* Telephone calls that originate or terminate in the same state.**

***Jack:* The physical connecting device at the interface which mates with a compatible receptacle.**

***Loop:* The wires that extend from the local telephone company's central office to the customer's premises.**

***Modem:* A device which modulates and demodulates signals transmitted on a carrier frequency. Through this process digital signals can be translated into analog signals and sent through communications networks.**

***Noise:* Any interference or unwanted signal which disturbs the quality of the signal being received.**

***Numbering Plan:* A uniform system for assigning numbers to every terminal on the national network so that each can be reached through direct dial numbers. The first three are the area code and the second three designate an exchange within the dialed area.**

***Off Hook:* To activate a telephone unit by lifting the handset from its cradle.**

Operator Assisted Calls: Any call which requires the assistance of an operator employed by the telephone company. Types of operator assisted calls include collect and credit card calls.

Person-To-Person Call: An operator assisted call in which the calling party specifies the person with whom he/she wishes to speak. If the called party is unable to accept the call, there is no charge to the party who initiated the call.

Premises: A home, business or dwelling where service originates and/or terminates.

Relay Service:

Slamming:

Slamming occurs when a company changes your local or long distance service without your consent. A service that allows the hearing community to communicate with the deaf or hard of hearing via an operator who uses a keyboard device to transcribe what one person says. The hearing impaired individual can read the conversation on a screen.

Substation: Any additional station which has been established as an extension to the primary line.

Switching Center: An automatic, semiautomatic or manual location that terminates multiple circuits and is capable of interconnecting circuits or stations or transferring traffic between circuits or stations.

Tariff: The schedule of rates and regulations pertaining to the services of a communications common carrier. Tariffs are filed with the appropriate regulatory agency.

TDD:

An acronym for Telecommunications Device for the Deaf, which are electronic devices that allow the hearing impaired to communicate over the telephone using a keyboard-based device.

Telecommunications: The science and technology of transmitting information or data over a network using electrical or optical impulses.

Telephone: The generic term for handset equipment capable of acting as a terminal point on a voice grade channel.

Toll Restriction: A limit initiated by the customer or the telephone company whereby the customer cannot make toll calls.

Toll Trunk: A communications channel between a toll office and a local central office.

Traffic: The volume and intensity of transmitted and received messages over a communications network.

Transmission: The passage of information through a communication medium.

TTY:

A term derived from the registered trademark of the Teletype Corporation. This term has commonly used in reference to teleprinters used by the deaf and hearing impaired. Similar to TDD devices.

Voice: Pertaining to human speech and any device capable of using human speech in its designate function.

Voice Connecting Arrangement: An interface arrangement provided by the telephone company to accommodate the connection of non-carrier provided voice terminal equipment to the public switched telephone network.

Voice Grade: Pertaining specifically to any means of transmission of speech or any channel, which is capable of transmitting human speech.

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EXHIBIT 3

TITLE 13 – Criminal Code

CHAPTER 22: Business and Commercial Fraud

(Italics added)

13-2201. Definitions

In this chapter, unless the context otherwise requires:

1. "Adulterated" means varying from the standard of composition or quality prescribed by statute or administrative regulation or, if none, as set by established commercial usage.
2. "Fiduciary" means a trustee, guardian, executor, administrator, receiver or any other person carrying on functions of trust on behalf of another person, corporation or organization.
3. "Financial institution" means a bank, insurance company, credit union, savings and loan association, investment trust or other organization held out to the public as a place of deposit for funds or medium of savings or collective investment.
4. "Insolvent" means that, for any reason, a financial institution is unable to pay its obligations in the ordinary or usual course of business or the present fair salable value of its assets is less than the amount that will be required to pay its probable liabilities on its existing debts as they become absolute and matured.

5. "Mislabeled" means:

(a) Varying from the standard of truth or disclosure in labeling prescribed by statute or administrative regulation or, if none, as set by established commercial usage; or

(b) Represented as being another person's product, though otherwise labeled accurately as to quality and quantity.

6. "Misleading statement" means an offer to sell property or services when the offerer does not intend to sell or provide the advertised property or services:

- (a) At a price equal to or lower than the price offered; or
- (b) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity available is specifically stated in the advertisement; or
- (c) At all.

7. "Security interest" means an interest in personal property or fixtures pursuant to title 47, chapter 9.

13-2202. Deceptive business practices; classification

A. A person commits deceptive business practices if in the course of engaging in a business, occupation or profession such person recklessly:

1. Uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity; or
2. Sells, offers or exposes for sale or delivers less than the represented quantity of any commodity or service; or
3. Takes or attempts to take more than the represented quantity of any goods or service when as buyer such person furnishes the weight or measure; or
4. Sells, offers or exposes for sale adulterated goods or services; or

5. Sells, offers or exposes for sale mislabeled goods or services.

B. Deceptive business practices is a class 1 misdemeanor.

EXHIBIT 4

Title 40: Public Utilities and Carriers
Article 3: Investigations, Hearing and Appeals
(Italics added)

40-248. Reparation of overcharge; action to recover overcharge; limitations

A. *When complaint is made to the commission concerning any rate, fare, toll, rental or charge made by any public service corporation, and the commission finds, after investigation, that the corporation has made an excessive or discriminatory charge, the commission may order that the corporation make reparation to the complainant with interest at the legal rate from the date of collection, if no discrimination will result from such reparation. If the corporation does not comply with the order for payment of reparation within the time specified in the order, an action may be brought to recover the amount thereof.*

B. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the action to enforce the order shall be brought within one year from the date of the order of the commission.

C. The remedy afforded in this section is cumulative and in addition to any other remedy provided for failure of a public service corporation to obey an order or decision of the commission.